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Minnesota Home Rule League

Regulation of public utilities in Wisconsin

Minneapolis

1914

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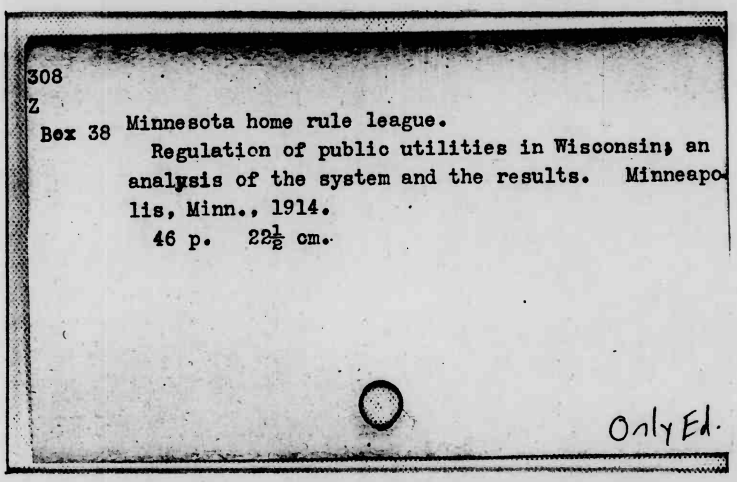

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Regulation of Public Utilities in Wisconsin

An Analysis of the System And the Results.

Bureau of Public Service Economics
17 East 38 Street, New York.

By The Minnesota Home Rule League
720 New York Life Building
Minneapolis, Minn.
March, 1914

THE NYGREN PRINTING CO. MINNEAPOLIS

THE MINNESOTA HOME RULE LEAGUE—ITS PURPOSE AND ORGANIZATION.

The Minnesota Home Rule League is a non-partisan organization of citizens of the state to promote the principle of Home Rule in the control and regulation of public utilities in Minnesota.

The League was organized in the crisis following the last session of the Legislature, when Governor Eberhart announced his intention to call a special session of the Legislature to pass a State Public Utility Regulation act. Its primary purpose was to prevent the carrying out of the Governor's program. To that end it has been engaged for many months in a comprehensive investigation of the results of state regulation in the United States, believing that the surest means to defeat the state regulation scheme was to present to the people of Minnesota the results of such a system as shown by the experience in the states that have given it a fair trial.

It was of first importance to have accurate information of the results of state regulation in Wisconsin. The article that follows gives the essential facts of the situation there. Articles dealing with other phases of the subject will appear later.

Besides showing the dangers and defects of state regulation, the League will later present a comprehensive plan of regulation for Minnesota that will provide for effective control of the public utilities, and which, at the same time, will preserve to communities their home rule rights.

The work of the League is under the direction of an Executive Committee consisting of the following citizens of the state:

KARL DeLAITTRE, Moorhead
CHRISTIAN GRIMSRUD, Minneapolis
C. F. KEYES, Minneapolis
E. ALBRECHT, Dawson
O. H. O'NEILL, Jackson
J. O. SYLVESTER, St. Paul
RICHARD M. FUNCK, Virginia
T. T. HUDSON, Duluth
W. E. McEWEN, Duluth
N. J. UPHAM, Duluth
W. J. BODKIN, Moorhead
THEO. CHRISTIANSON, Dawson
T. J. KNOX, Jackson
M. A. MURPHY, Virginia
WALTER WEST, Faribault

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The Minnesota Home Rule League

Regulation in Wisconsin
and
The League's Indictment

Following a comprehensive investigation of the results in Wisconsin, concrete and general, the League draws the following indictment against the Wisconsin system of state regulation of public utilities as administered by the Railroad Commission.

1. The Commission has not given relief to the public in the way of lower rates and better service in any such measure as has been secured by the municipalities of Minnesota under home rule, and in notable cases in other states not under state regulation.

2. It has shown a strong leaning towards the interest of the utilities as against public interest, as revealed in its findings of high rates for service, more than reasonable profits and excessive valuations. Originally created as an agency for the protection of the public from the exploitation of utility companies, it has become rather an agency for the protection of the companies and the means of increasing the value of their investments.

3. It has moved with exasperating slowness in rate and service cases involving great public concern, with the companies profiting enormously in the interim by its inaction.

4. It has put a big financial burden upon the state at large for the alleged benefit of the cities.

5. It has been an obstacle in the way of the cities securing for themselves relief from oppressive conditions of rates and service through municipal ownership, by inviting competition, or by other methods.

6. It has compelled the cities in many cases to go to large expense to defend their interests, both before the Commission and the courts, when the theory of the law is that the Commission is created to do exact justice toward all parties concerned.

7. It has used the indeterminate permit to protect inefficient private electric utilities in their local monopoly, in continuing poor service and excessive charges and in avoiding their legal contract obligations with municipalities.

8. It has busied itself with inconsequential details which common sense alone would leave to the discretion of local authorities and utility officials, thus inconveniencing the public and delaying consideration of vitally important matters.

9. It has determined for municipalities matters

INTENTIONAL SECOND EXPOSURE

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of broad fundamental public policy, which by natural right belong to the municipalities to determine for themselves.

10. It has interfered unwarrantably with the operations of municipal plants.

11. It has discouraged the cause of conservation of natural resources advocated so strongly by other departments of the Wisconsin government.

12. It has failed signally to eliminate the public utilities from local politics. On the contrary, it has compelled them to be more active than ever.

13. It has worked to suppress community initiative and to retard the development of citizenship and growth of the citizens in capacity for self-government.

14. In rate making for water and gas, both municipal and private plants, it has discriminated heavily against the general public and in favor of the privileged few.

15. It has shown a brutal disregard of local public sentiment in matters affecting vitally the political, social and material welfare of communities.

16. It has gained such influence over the legislative body of the state that, in effect, it writes its own legislation, with the result of dangerously enlarged powers in this department of government.

17. It has not facilitated the settlement of controversies between municipalities and public utility companies, but rather often operates to still further complicate the situation and delay the day of final adjustment.

The Story in Detail.

This article, the conclusions of which are stated above, is the first in a series prepared under the direction of the Minnesota Home Rule League dealing with phases of state regulation of public utilities. It tells the story of the result of state regulation in Wisconsin, the pioneer in the movement and the state where it is commonly claimed that its success has been the greatest.

It has been asked why the League makes Wisconsin the chief mark for its attack upon the state regulation principle, when New York—both City and Up-state commissions—and other states, furnish such plain examples of failure of state regulation. The League's answer is that it has purposely gone to Wisconsin for evidence because it is in that state that the system has been given the longest and fairest trial; because the Wisconsin Commision, in character and sustained personnel, stands out pre-eminent above all other state commissions, leaving the issue to rest upon results alone; because it is there that the conditions can more fairly be compared with those prevailing in Minnesota under home rule; and finally, because if the League can

make a successful argument against state regulation in Wisconsin, where the conditions have been the most favorable and where its advocates claim for it the most notable results, the case against the principle of state regulation in its general application in the country will stand proved.

While the League has much valuable material at hand to show the failure of state regulation in other states, and purposes in good time to put this before the public, at this juncture it rests its case with the evidence from Wisconson. The League believes that the experience of Wisconsin alone is sufficient to impel the municipalities of Minnesota and other states to fight to the last ditch to retain their present home rule rights, as against regulation by the state.

The Tests of Success.

There are many tests of success or failure that may fairly be applied to the Wisconsin experiment of state regulation of public utilities. The effect upon the independence and the initiative of the local community, the deterioration of citizenship through the taking over by the state of functions and responsibilities that belong by every right to the municipality, the weakening in capacity for self-government resulting from the ruthless disregard of the fundamental principles of home rule, loom up large in any consideration of the results of state regulation. The common test, however, and the one which will appeal to the average citizen, is that of rates and service. Both are easily comprehensible. One hits the pocket nerve; the other affects directly the comfort and convenience and material welfare of the public. In both cases the results are plain and public judgment may fairly be rendered.

By the test of rates and service, what should be the verdict in the case of the Railroad Commission of Wisconsin and the Public Utility Act of that state?

Let us first hear the evidence of John W. Bennett of St. Paul, lawyer, newspaper man, publicist and trained investigator, as contained in a summary briefing the results of state regulation in Wisconsin in this regard. The summary covers the years from the taking effect of the act in 1907 to March 1912, the date to which the printed reports of the Commission brought down its cases at the time the investigation was made. It contains a study of 134 cases, and includes all of the local public utility cases involving rate and service issues during the period above specified. Of this number 38 were

telephone cases. No steam railway cases are included. The summary follows:

"Wisconsin cities and the public generally have asked the Wisconsin Commission in charge of public utilities for reductions in 39 cases. Substantial reductions have been granted by the Commission in but 3 cases, and small or nominal reductions, in 8 additional cases.

"Public service corporations of Wisconsin have asked the Commission for increase of rates in 52 cases. Substantial increases have been granted in 43 cases and small increases in 7 additional cases. In other words, some increase has been granted in nearly every case where it has been asked. Some have been granted when not asked for.

"Cities or the public have asked for better service in 32 cases. Better service has been ordered in 20 cases. In some of these cases it was conditioned upon increased rates.

"Public service companies have asked for relief of various kinds in 10 cases. It has been granted by the Commission in 9 cases.

"Citizens or cities have asked relief in 10 cases. It has been granted in 5 cases.

"To express the result in another way, the public was successful before the Wisconsin Commission to a substantial extent in but 7 per cent of the cases brought by it for rate reductions, and was given even the slightest relief in but 29 per cent of the cases.

"Public service corporations were successful to some extent in more than 96 per cent of the cases they brought before the Wisconsin Railroad Commission for rate increases, and were fully or substantially successful in more than 82 per cent of the cases brought by them before the Commission for rate increases. They got practically what they asked for in this percentage of all the cases brought.

"In a term of five years during which the trend of public service charges have been so strongly downward, it is quite amazing that the trend under the Wisconsin Commission should be so uniformly upward."

The Telephone Situation.

Taking the telephone situation by itself, the attitude of the Wisconsin Railroad Commission is so apparent as to need only a statement of comparative rate records to tell the story.

Telephone rates in Wisconsin are high as compared with Minnesota, and the Railroad Commission has helped substantially to bring about this situation. It has boosted rates all along the line. During the period from Oct. 16, 1908, to March 12, 1912, the Commission considered 34 telephone cases. It granted 30 rate increases asked for by companies, denied raises in 3 cases and dismissed one protest against the existing rate.

The following table of comparative rates for long distance service in Wisconsin and Minnesota furnishes interesting testimony:

WISCONSIN				MINNESOTA				
MILWAUKEE TO	Air-Line Distance	Rate for Two Minutes	Each Additional Minute	FROM TWIN CITIES TO	Air-Line Distance	Rate for Two Minutes	Each Additional Minute	Difference in Favor of Minnesota
Abbotsford	175	.85	.40	Breckenr'ge	175	.60	.25	.25
Altoona	210	1.00	.45	Comstock	215	.70	.30	.30
Arkansaw	232	1.05	.50	Perley	232	.75	.35	.30
Ashland	285	1.40	.60	Middle R'r	285	.85	.40	.55
Baraboo	95	.45	.20	Danube	95	.35	.15	.10
Barronett	268	1.40	.60	Thief R. Falls	268	.80	.35	.60
Berlin	80	.40	.20	Blooming Pr.	80	.30	.10	.10
Chippewa Falls	215	1.00	.45	Wolverton	215	.70	.30	.30
Elroy	125	.60	.30	Montevideo	125	.45	.20	.15
Fond du Lac	57	.30	.10	Brownton	57	.25	.10	.05
Green Bay	102	.50	.20	Raymond	100	.40	.15	.10
Marinette	142	.65	.30	Appleton	142	.50	.20	.15
Marshfield	157	.70	.35	Johnson	157	.55	.25	.15

But failure to secure adequate results in the matter of service rates is not the only charge against the Railroad Commission in the telephone field. It has failed just as signally in another and a very important phase of telephone regulation—to compel physical connection between competing systems, one of the later provisions of the Public Utility Act. The Commission's orders in this regard were promptly appealed to the Federal court by the companies, and no further progress has been made. It is the same old story of long delays in the courts when the Commission makes an order that really means anything.

The Problems of the Cities.

The severest test of the Wisconsin Railroad Commission has been its handling of the utility problems of the cities. It is here that its failures are most manifest and where the consequences have been the most serious. Of the cities of Wisconsin, Milwaukee furnishes the best illustrations. Gas, electricity, street car and telephone service in that city are all in an unsatisfactory condition, and the story of the efforts of the Commission to meet the situation there gives an illuminating insight into the Wisconsin experiment of state regulation.

Regulation by the state has been admittedly a failure in Milwaukee—admitted even by some of its staunchest friends. Serious defects in service and over charges for service have been the constant complaint. The Commission has moved with exasperating slowness to remedy these defects and its "remedies" have too often been inadequate and generally unsatisfactory to the public.

Take first the work of the Commission in 1913 in the controversy over the contract for electric

street lighting. This controversy offers significant testimony of the inability of the Railroad Commission to be of any real service to a large community in a difficult public utility situation. Its service in this case worked rather to confuse than to clear up the problem, and to give aid and comfort to the company rather than to the public. In the end, the Milwaukee authorities found it necessary to cut entirely loose from the Commission and work out their problem in their own way and at their own expense.

Four times during the past fifteen year the voters of Milwaukee have expressed themselves, by referendum vote, in favor of a municipal lighting plant, each time by a vote of more than two to one. Every apparent legal obstacle to such a course has been cleared away by the courts. But the influence of the private companies has been sufficient to defeat every effort to carry out this program. In this most recent instance it is a question of proceeding to construct a municipal street lighting system or continue to contract with the Milwaukee Electric Railway & Light Company for this service.

The Wisconsin Commission, at the request of the chairman of the street lighting committee of the Council, submitted a report on the proposition, in which it estimated that street lighting by a municipal plant would cost the city $46,873.00 per year more than if furnished by the company, on the basis of a ten year contract.

Complicates the Situation.

The Commission arbitrarily assumed certain premises and then proceeded to draw conclusions from them. The report is clearly a very superficial study of the Milwaukee street lighting situation and is of no value to help remedy the present unsatisfactory conditions in this field. Its only effects have been to complicate the situation and strengthen the private company's position. Nothing but the integrity and high personnel of the Commission saves it from being open to the suspicion of direct collusion with the Milwaukee Railway & Electric Light Company, the interested party, as it appeared later that the plans on which the Commission based its conclusions, though offered as the plans of the city's lighting committee, were in fact prepared by the electric company. At the best, the Commission merits censure for permitting itself to be made useful in such a situation to a company whose purpose and methods ought by this time to be quite evident to all concerned in regulating Milwaukee utilities.

It is now the purpose of the City Council to make a comprehensive street lighting survey on its own responsibility, with the usual heavy expense, before taking definite action on any plan. This will be a work of nearly a year. In the meantime the city continues to pay the old price of $65 per lamp per year for an admittedly inferior service. During this time Minneapolis will be paying $60 per lamp, with modern lamp equipment, a rate secured by negotiation between the company and the City Council. In the light of these facts, of what force is the argument that cities are not able to settle their own problems because of the heavy expense and lack of expert knowledge?

Gas Rates in Milwaukee.

The Commission's action in the matter of the proper charge for gas service to consumers in Milwaukee gives an interesting view of another phase of the Commission's work—its attitude of discrimination in favor of large users of a public utility product as against the small consumer. The Commission, on principle, theoretically recognizes only the so-called scientific side of rate questions. Nowhere in its decisions does it show any appreciation of the social side of the problem.

It has been claimed by the advocates of the state regulation theory that under this system special rates and privileges are abolished. This is just the reverse of the facts in Wisconsin under state commission rule. It is the Wisconsin Commission that has developed to the highest point the classification of consumers of utility products—gas, electricity and water—thereby giving official sanction to the very conditions for whose abolition the Commission was created. In making rates for gas, the Commission stands staunchly for the so-called "step-rate" system of charging for this service—a price for the several classes of consumers based on the amount used, each price supposedly representing the cost of the service, as worked out to the point of "scientific" exactness.

The legislature of 1911, responding to public sentiment in Milwaukee, was ready to pass a bill providing for a uniform price of 50c for gas in that city. The prevailing price was 80c maximum, ranging down to 50c in five steps. At this rate the company was making large profits. But the friends of state regulation stepped in and insisted that this was the Railroad Commission's job; that scientific facts as to valuation, etc. were necessary to insure proper results. So the task was turned over to the Commission. Shortly thereafter the company volun-

tarily reduced the maximum price to 75c, with no change otherwise.

On July 14th of this same year, the city of Milwaukee filed a petition with the Commission asking for a further reduction of rates. More than two years later, after the legislature had adjourned and there was no recourse left to the city, the Commission handed down a decision making a schedule of five rates, ranging from 75c to 45c.

The former schedule put all consumers up to 10,000 cubic feet per month in the maximum class. The Commission lowered the amount to 7,000 cubic feet. The only other change made was to grant to the largest consumers a 45c rate, as against the former 50c rate.

It will be noted that the only class materially affected by the change of schedule are the largest consumers—those using over 200,000 cubic feet per month and constituting only 2.68 per cent of the total number. The claims of the 79.08 per cent making up the number of those using less than 7,000 per month, received no recognition whatever from the Commission.

A Self Evident Failure.

When it is realized that the city set out to secure a reduction for the small consumers, and that the gas company, the city, and the large consumers themselves asked for no reduction for the large consumers; and when it is realized, further, that the whole intent of regulation legislation in Wisconsin was to prevent discrimination in favor of the big fellows as against the little fellows, the failure of the Commission to adequately handle this matter is self-evident. Says the Milwaukee Free Press of August 19, 1913:—

"Granting to this reasoning of the Commission all due weight, the fact remains that the kind of regulation which it justifies is not the kind of regulation which the public expects and has been led to expect. It is not regulation of public utility rates which the people have been told would be accomplished when this commission was created and its powers enlarged. Very few citizens expected that 50c gas was within the range of possibility in Milwaukee, but that some reduction could be made to the majority of the consumers without injustice to the gas company, has been generally believed. Very few citizens too, have objected, or do now object, to lower rates for the very large consumers, for that to an extent is a public charge, but they do object when all the possibilities of reduction are exhausted in behalf of those consumers. We say again that the excellent reasoning of the Commission is lost to the public."

* * *

Some months later, in the Waukesha case, the

commission took the same attitude—reduced the price of gas 10c per thousand feet to four classes of consumers, constituting 6 per cent of the total number of consumers of gas, and ignored the claims of the other 94 per cent who were paying the top price.

The issue should be kept clearly in mind. It is not whether the rate can in all cases be made absolutely uniform, or whether the Milwaukee Gas Company can sell gas to the consumer at a uniform rate of 50c and still pay 10 per cent dividends. It is rather the justice or injustice of the Commission's giving the big consumer all the benefit of the reduction. And further, one must question the wisdom of permitting an appointive state commission to determine for a city a question like this, involving broad public policy, on a theory of "scientific reasoning" that flies in the face of the larger justice required by public interest.

Compare this solution of a large city's gas problem with the action of the Minneapolis City Council! Basing its action on the valuation and other facts as shown by the expert employed for this purpose, and acting by virtue of the contract made with the Minneapolis Gas Light Company in 1910, the Minneapolis City Council in 1913 passed an ordinance ordering the company to charge a uniform rate of 70c per thousand cubic feet to all consumers and 65c per thousand cubic feet to the city. **And this schedule is in effect pending a trial of the case on its merits in the courts.**

The difference between state and local regulation of public utilities cannot be measured adequately in rate figures, but one of the most illuminating distinctions may be made by careful comparison of these two schedules—Milwaukee under state regulation, Minneapolis under local regulation.

A Lesson in Valuation Making.

The Milwaukee gas case ought not to be passed without some reference to the Commission's methods in the valuation of the company's property. The total value put upon the property for rate making purposes was $10,700,000. The basic factor used in reaching this result was the usual cost of reproduction of the property. As items in this connection the Commission included liberal "overhead charges" covering every possible contingency of construction, large allowances for house piping and services originally put in free by the company as a means to secure business, "going value," and finally, for good measure, an allowance for "unusual engineering foresight." This latter item is apparently

the last refinement in valuation making and an invention of great usefulness to the public utility companies. Unusual engineering foresight in this instance consists of this:

The Milwaukee Gas Company, with good business judgment, substituted for part of the usual low pressure distributing system a high pressure, or "booster" system, the effect of which was to make a substantial saving in cost of construction of the distribution part of the property. This saving the company claims was due to extraordinary "skill and foresight" on its part, for which, in justice, it should be given credit, in the form of additional allowance for capital investment. The Commission falls in readily with this idea and the item goes in, just to what extent the Commission, as in the case of going value allowance and all other intangibles, does not commit itself. The company estimates a saving to capital investment on this account of $322,000, and says that the amount will ultimately reach $1,349,000. Of the total valuation put upon the property by the Commission, $1,344,446, as near as the Commission's figures throw any light on the subject, represents the aggregate of going value, "economies resulting from unusual engineering foresight, and other items." What the "other items" are does not appear in the report. Apparently the term represents something the Commission feared it might have forgotten and was thrown in as a saving clause.

In this case we see the Railroad Commission inventing a wholly new form of intangible value for the benefit of the company and making it a perpetual burden of capitalization upon the consumers of gas. Stating the situation in another way: Under the Railroad Commission's combination allowance for going value and "unusual engineering foresight" the public utility companies simply can't lose. On the other hand, the public "gets it" both going and coming. If inefficient or burdened with early deficits in operation, the public carries the burden in the form of capitalized losses expressed as going value. If unusually efficient in operation or construction, the public pays for it in added value, a reward for good behavior, as it were.

Discriminating Water Rates.

At the time the Wisconsin Commission published its order adjusting the gas schedule in Milwaukee, fear was expressed by the city officials that this meant similar action in water rates. Chairman Roemer in an interview stated reassuringly: "The situation is in no way the same. In the case of

water rates, there is no source of competition to be considered. In the gas case, competition is a very present consideration."

This was a poor prophecy, for on Oct. 1, 1913, there was made public a proposed action of the Railroad Commission, which, if put in effect, would have so readjusted city water rates, through a system of discriminatory charges, that 50 big consumers of water would have had their bills cut in half and 57,000 consumers—small business men, professional men, clerks, and working men—would have had their bills increased from a few per cent to several hundred per cent.

Despite Mr. Roemer's protestations, the same policy of helping the big fellow at the expense of the little fellow in evidence in the gas case, was in prospect for the users of water. The mere fact that it was the city's own plant, paid for by general taxation, and admittedly successfully administered, did not enter into consideration under the Wisconsin Public Utility law and the Commission's contemplated action.

Small Consumers Ignored.

The Commission's program substituted for the flat rate provided for in the city charter a discriminatory charge based on the amount of water used, the essential principle of the Commission's gas schedule. It was estimated that the total loss to the water department per year, if these rates had gone into effect, would have been about $180,000. But this loss is of small consequence compared with the fact that 65 per cent of the small users of water would have gotten absolutely no benefit from the decrease. The revenues were to be decreased, and the small consumers made to pay twice as much for their water, in order that some 50 large consumers might get their bills reduced 50 per cent or more. It is of interest in this connection to know that chief among the large consumers of water that would have been benefited by this change in the system of rates, were the Chicago, Milwaukee & St. Paul Railway, the Milwaukee Railway & Electric Company, the Chicago & Northwestern Railway Co., the Milwaukee Gas Company, and four big brewing concerns.

The notice of the new schedule for water service proposed by the Commission was conveyed to the city officials in the form of a statement, ending with an "order" to the effect that the Milwaukee Waterworks abandon its then schedule and substitute the Commission's schedule on January 1, 1914. The statement was promptly made public by the waterworks officials, despite an injunction from the Commission to keep it from the public, and at once there arose a furious protest throughout the community.

Three days later the Commission formally requested the city authorities to return the statement at once, explaining that it was merely "a statement of service cost for the superintendent to check up."

For once the Commission apparently gave some regard to public sentiment; or was it only a case of "cold feet?"

The Story of Street Car Service.

The story of street car service in Milwaukee is one involving long suffering, frequently borne impatiently by the people, of flagrant disregard by the street railway company of the ordinary rights of the riding public and seven weary years of waiting for the Commission to act. The Milwaukee public has complained bitterly of its street railway service, and years ago appealed to the Railroad Commission for relief. By general admission, transportation service in Milwaukee has been as inadequate to the needs of the public in every respect as in any other city of its class in the country.

The Commission moved with aggravating deliberation in this case. The original complaint was filed Nov. 28, 1906, and after a tentative investigation an order was entered July 11, 1907, requiring the company "to maintain in the future at least as good or better service than it maintained during the months of February and March 1907." The order was very indefinite in its terms, and in effect meant nothing. The company moved along in its old way disregarding its public obligations and with conditions constantly becoming worse. The Milwaukee public, irritated beyond measure, fumed and fretted for six years longer while the Railroad Commission dozed complacently down at Madison. Then, thoroughly disgusted with the Commission's do-nothing attitude, the public started agitation to take from the Commission the power to regulate street railways; and there was serious talk in the legislature of abolishing the Commission entirely. Under this prodding from the public the Commission woke up. It started an investigation of street car conditions in Milwaukee and in November, 1913, filed its order—seven long years after the complaint was entered.

Makes a Car Load Standard.

The big fact in this last order is that the Commission makes a definite standard for a carload, and it is a very significant fact, too, when it is remembered that as late as March, 1913, at a hearing before the Minnesota Legislature, Commissioner Erickson declared that the Commission had made no

car load standard for rush hours, and, moreover, that it was impossible to do so. He was reminded that the Minneapolis City Council had done this; that its orders had been enforced by the police and the legality of this legislation upheld by the courts, and that prompt results in the way of large additions to car equipment had been secured thereby. Mr. Erickson shook his head and still stuck to his position: it could not be done.

Evidently Mr. Erickson started the machinery of the Commission promptly into motion when he returned to Madison, for in this last order in the Milwaukee Street Railway case the Commission finally finds a way to make a car load standard, both for rush and non rush hours. The standard is more indefinite than that made in the Minneapolis ordinance and is not so favorable to the public; but it does do something, and something which the senior member of the Commission insisted less than a year before couldn't be done. It is significant, however, that the Commission refuses to take the burden of enforcing the provisions of the order or doing the detail work of service supervision performed in Minneapolis by the City Council—to keep constant check on traffic conditions and enforce promptly the necessary remedies. It says the city, or individuals, will have to check up conditions and make complaints to the Commission for failure of the company to meet the standards made—a difficult and uncertain procedure. Plainly the Milwaukee transportation situation is yet far from satisfactorily settled. Indeed, at this date (March, 1914), four months after the Commission's order was filed, the cars are more crowded than ever; but the Company is said to be "studying" the problem.

The City Gets Busy.

But the Milwaukee public during the time the Commission was waiting for its indefinite order requiring the traffic conditions in effect in 1907 to give results, was not idle. Hopeless of securing relief from the Commission, and with street car conditions going from bad to worse, the city started out to help itself. It purposed to do this by securing an act from the legislature giving the city power through its council to regulate street car service. The resolution endorsing a legislative bill to this end was adopted by a unanimous vote of the Council. This vote expressed not only the sentiment of the Council, but public opinion as well. Mayor Bading vetoed the resolution and the veto was sustained. While admitting the justice of the criticisms of the street car service, he insisted that it was the Railroad Commission's job to find the remedy rather than the city's.

A Tale of Two Cities.

Again a comparison with the Minneapolis situation suggests itself: The Milwaukee Electric Railway & Light Company, with an indeterminate permit from the state, protected from all hostile local attacks, maintains intolerable service conditions, and successfully resists for many years the weak attempts of the Railroad Commission to better them. The Minneapolis Street Railway Company, subject to the City Council in the matter of service regulation, maintains a service equal in most respects to that of any city in the country, with an expiring franchise offering certain opportunities for securing still further improvement in service and reductions in rates.

Note the difference: In Milwaukee, six years of state regulation with only the deferred hope of results. In Minneapolis, a few weeks discussion, followed by the passage of an ordinance which forced 65 additional cars into service inside of a few months and maintains permanently a service to suit changing conditions of traffic, at a total cost to the city of $125.00 per month, the salary of the street car inspector. This result does not take into account the later agreement with the company, also coming through the Council, providing for 16½ miles of new extensions, all to be in operation before the close of 1914.

The Street Car Rate Case.

Unwarranted delay in arriving at decisions in cases involving rates and service is one of the popular complaints the public makes against the Wisconsin Commission. The facts appear to justify this criticism, at least in part. The explanation given by the Commission's apologists that that body is a very busy one and undermanned, does not satisfy the people or sufficiently explain the situation in all cases. The Milwaukee street car service case was an interesting example. No less exasperating dilatoriness characterized the street railway rate case. The Commission's explanation that there were peculiar conditions there never met the issue with the Milwaukee public, impatient for relief and helpless to better their state on their own initiative.

After spending $18,000 in fees of experts, and waiting seven years for results, all the patron of the Milwaukee Electric Railway & Light Co. has to show in rate reductions in return for his infinite patience is the privilege of waiting a further indefinite period while the United States Supreme Court passes on the justice of the Commission's order. If he lives that long, he can have one free ride for

every twelve rides he has taken in the meantime, provided he has kept the little black coupons which the company has thoughtfully attached to the tickets he has been buying. The following is a reproduction of the coupon:

"SAVE THIS COUPON"

"The Milwaukee Electric Railway & Light Co."

"This coupon is issued pursuant to the order of Circuit Court of Dane County, made Sept. 21st, 1912. When adjudged by a court of competent jurisdiction, this coupon will be accepted in payment of one fare within the then city limits of the city of Milwaukee and subject to such further restrictions as may be provided in such adjudication. This coupon will be void if the order of the Railroad Commission of Wisconsin made Aug. 23, 1912, on complaint of the city of Milwaukee, providing for the sale of thirteen tickets for fifty cents, is set aside or modified."

(Signed) "J. D. Mortimer,
General Manager."

The original complaint charging excessive fares was filed by the city Nov. 28, 1906. Further complaint was made May 13, 1908. Then followed a tedious wait, in all six years, illuminated only by the ingenious explanation of Commissioner Erickson that the Commision was "waiting for a favorable time" to make its decision reducing rates. On August 23, 1912, patient endurance and a vast expenditure of money brought their reward in the shape of the "sweeping" reduction indicated above—thirteen tickets, in place of twelve, for 50c.

That the fight was now only well begun, was speedily indicated when the street railway company appealed to the Circuit Court, from there to the Wisconsin Supreme Court and finally to the United States Supreme Court, where the case now rests. In the meantime thrifty Milwaukee citizens are saving the little black coupons against the day when the court of last resort speaks. It will be interesting to learn what portion of the excessive amount expended for street car service in the meantime finally comes back to the public through the carefully treasured little black coupons. Surely but a small part of the amount which the company will save above the expense of litigation! And yet we are constantly told how the utility companies invariably accept the Commission's decision, because their terms are so fair and legally so unassailable.

During the time this controversy has been on in Milwaukee, the Cleveland public has been enjoying 3c fares, while Columbus has secured eight tickets for 25c and Toledo and Detroit 3c fares at rush

hours, all by their own efforts, acting through their city councils.

And compare the situation of the Milwaukee car rider with the Minneapolis gas consumer! In Minneapolis, users of gas are getting the immediate benefit of the 15c reduction in the price of gas ordered by the Council and the company is doing the worrying pending the final adjudication of the case by the courts.

Madison's Hard Experience.

The experience of Madison, the home of the Railroad Commission, clinches one big vital fact connected with state regulation in Wisconsin—that the Public Utility Act, as enforced by the Commission, protects the existing utility monopoly in a community, no matter how inefficient its service or how excessive its charge for service.

Madison is a city of 25,000. It has about reached its limit industrially under present conditions. Its chief support is the University of Wisconsin with its several thousand students. The need for bringing in new industries is keenly felt. To secure industrial expansion, cheap electrical power is the prime essential. Yet, paradoxical as it may seem, with a water power plant developing 47,000 H. P. within 40 miles of the city, operating under the name of the Southern Wisconsin Power Company, and with an offer from that concern to deliver electric energy at the city limits for 1c per K. H., the Madison community is unable to secure electricity on anything like reasonable terms. The Madison Gas & Electric Company, backed by the Wisconsin Commission and the indeterminate permit, is master of the situation. Getting its service from an antiquated steam plant, this company has been charging the citizens of Madison 12c per K. H. maximum rate, with an average of about 8c per K. H. for all purposes, and has held back the natural growth of the city and repressed industrial development. Stimulated to action by the publicity given the situation, the Wisconsin Commission recently ordered a reduction in rates to 10c maximum. It would be interesting to know if the Commission's action was based on real scientific facts or was just a hedging proposition to propitiate public sentiment.

Hopeless of securing adequate relief from this intolerable situation through the Commission, the business and professional interests of Madison have now organized to protect themselves. Under the name of the Madison Board of Commerce, with a war fund of $20,000 and a $5,000 secretary, they have begun a campaign to boost Madison, and as

a first necessity to this end, to secure cheaper electric energy for the city.

For five years the Southern Wisconsin Power Company has been delivering electric power to the Milwaukee Electric Railway & Light Company from its plant at Kilbourne, 114 miles away. During this time there has been every opportunity for Madison, only 40 miles distant, to secure this same cheap power. But the Madison Gas & Electric Company has continued to generate its power from an archaic steam plant and to charge the community a rate based on the cost of service.

The Commission Stands Pat.

In the meantime, the full capacity of the Kilbourne plant has been contracted away to other localities. But there is about completed at Prairie du Sac a new 35,000 H. P. plant owned by the same interests, and it is for the purpose of securing some of this power for use in Madison before it is taken by other cities that the citizens have organized. A permit from the Wisconsin Commission is necessary before the city can enter into a contract with this concern. The Wisconsin Commission is not enthusiastic over the proposition, and the permit is not forthcoming. Competent engineers estimate that a municipal plant getting its energy at 1c per K. H. at the city limits can furnish service at a reduction of 50 per cent of the existing rates in Madison.

Now why does the Commission stand in the way of the citizens of Madison securing cheaper light and power? Simply because the Commission has a theory to sustain—the existing monopoly must be protected. Again, any exception made in the case of Madison, the Capitol city, would start a demand from other cities in the state for the same privilege. Such a radical change in the Commission's practice would inevitably mean large additions to the number of municipal electric street lighting plants, and to this the Commission is constitutionally opposed, although many cities in Wisconsin are demanding them.

In the Madison case, the Commission insists that there would be no saving to consumers through the proposed arrangement with the outside power plant, claiming that the city would be compelled to sustain a steam plant in reserve. Hydraulic engineers of broad reputation vigorously dispute this claim.

But why does not the Madison Gas & Electric Company scrap its own plant and contract for its power with the water power concern? The reason is an instructive side-light on the fundamental theory underlying the Wisconsin Public Utility law.

Why should the electric company care to economize on power or anything else? If it did effect economy, and the Commission did its duty as contemplated by law, the rates to consumers would be correspondingly lower, with no change in profits. The company is not in business to encourage conservation, cheapen the cost of production, or help the Wisconsin Commission to make a record for scientific regulation, but solely for profits and with the least expenditure of effort.

This instance emphasizes the fact that the Public Utility law, like all legislation conferring monopoly privileges on private corporations, not only does not secure economy, but encourages extravagance.

The other big fact that stands out all through is that in the very city that is the home of the Wisconsin Commission, the city, to secure its rights, must not only take the initiative, employ experts and adopt an aggressive attitude, but make its fight against a hostile Commission re-enforced by the terms of the Utility Act.

The Conservation Problem.

The question of conservation of natural resources, emphasized so strongly by the University of Wisconsin, is in point here also. The facts indicate plainly that the public utility law does not encourage the conservation of the natural resources of the state, but actually puts obstacles in the way of such conservation. Says C. M. Jansky, Professor of Electrical Engineering of the Extension Division of the University of Wisconsin, in re the Madison Electric situation: "It is not merely a question of relative cost between energy produced by steam and water power, but a question of utilizing the energy in the waters of the state now going to waste, and saving the coal for other purposes for which water power cannot be used."

Further interesting testimony regarding the Madison situation is furnished by the University of Wisconsin. The University maintains a heating station with a capacity rated at 2350 H. P., which runs up to 225 per cent of its rating to 6,000 H. P. All buildings of the University are heated by steam from this plant. In the same building are the transformers and switchboards which take the electric power from the Madison Gas & Electric Company's wires and supply it to the University for lighting and power. A special schedule of rates approved by the Wisconsin Commission is in effect.

Here we have 6,000 H. P. of steam within 50 feet of the University switchboard, and no connec-

tion between the two. There is now a $22,000 investment in motors, switchboard and distributing system. It is estimated that $20,000 additional would equip the University with engines to utilize the power from the boilers. The exhaust steam would continue to do the present work of heating. More than that, there would be power enough available, in addition to that necessary for the use of the University, to supply all the needs of the city of Madison, except for street railway purposes.

What stands in the way of this other economical method of street lighting and power for Madison? The indeterminate permit held by the Madison Gas & Electric Co., under the authority of the Public Utility law of Wisconsin and as administered by the Railroad Commission.

Protecting Monopoly in Baraboo.

Baraboo furnishes another significant example of the Wisconsin Commission's theory of monopoly rights in a community, as well as of its "scientific" methods.

In 1911, the city, then buying electric energy for street lighting from a private plant, was offered a rate of 1½c per K. H., delivered at the city limits, from the Wisconsin River Power Company, then engaged in developing its power plant at Kilbourne City, about 16 miles from the city. This company is furnishing power to the Steel Trust iron mines just outside the city. This proposition looked good to the people, who went on record by a large majority at a special election that year in favor of building and equipping a distributing system to light the streets and furnish service to the people.

After the city had definitely committed itself to engage in the electric light business, the private company surrendered its franchise and accepted an indeterminate permit from the state. This strategic move on the company's part compelled the city to obtain from the Wisconsin Commission a certificate of "public convenience and necessity," authorizing the competition. The Commission did not act, and the city then took its case to the legislature, which in turn, by a close vote, defeated the bill allowing Baraboo to secure cheap electric service for its citizens.

A second vote of the people, this time to issue bonds to purchase the company's property on a valuation made by the Commission was then taken and the proposition defeated. The only thing left to the city was to make the best possible terms with the existing monopoly for street lighting, and two years later when the contract expired, the Wis-

consin Commission, at the request of the City Council, made a tentative valuation of the private plant and fixed a basic rate of $16.25 per lamp. This rate was not satisfactory to the company and the case was reopened. After further investigation, the Commission fixed the rate at $18.50. The City Council balked at this rate, and then, by mutual agreement, the city and company got together on a rate of $16.59 per lamp.

To secure the necessary votes in the Council to ratify this agreement, it was necessary for the company to place the Railroad Commission on record as approving the compromise rate. When it is realized that the theory of the Wisconsin law is that there is only one "scientific" rate, and that the only officials endowed with the necessary wisdom to find it are the Railroad Commission, it is amusing to find the Commission certifying to two different rates within a few months and then approving an entirely different schedule discovered by some one else.

Another phase of the practical working of the natural monopoly theory as applied by the Wisconsin Commission, is seen in the electric rates at Portage. The Southern Wisconsin Power Co. is supplying energy from its water power at Kilbourne to the Electric Light Company at Portage for distribution at a contract rate of 1c for light and ½c for power, with discount for prompt payment. The consumers of Portage are paying 12c for residence lighting, 10c for business lighting and 4½c for power. With the writing of a monthly check its only effort in the production of current, the local company enjoys practically the same rates charged in communities still dependent upon steam plants.

Puzzle,—Who gets the benefits of cheap current at Portage?

The Commission's Orders Defied.

The fine disregard that the public utility companies show for the orders of the State Commission when they conflict seriously with company interests, is shown eloquently in the case of Janesville.

The experience of this city is emphatic refutation of the claims of the champions of state regulation in Wisconsin that the companies invariably respect the Commission's decisions. There are numerous examples of the contrary in the state, but the Janesville situation tells the story for all of them.

For more than two years the Janesville Water Company, a privately owned plant, has deliberately defied the orders of the Commission reducing its rates. Two complaints against the company's rate

schedule were filed with the Commission—Jan. 21, 1909, and April 19, 1910. On August 27, 1911, the Commission made an order reducing rates and ordering the company to furnish free meters and lay service pipes to the curb. The company secured a stay to Jan. 1, 1912. This it evidently interprets as being permanent, for it has continued to enforce former rates and has compelled consumers to install their own meters and comply with all the terms of the old contract. The Commission has shown no zeal to enforce this order. In the meantime Janesville has voted to take over the water plant for municipal operation, the Commission has made a valuation of the property, and the case is now in the courts.

During the time of this controversy over rates and acquisition of the water plant, the Janesville Water Company is publicly charged with being actively engaged in local politics. The company is characterized as the "Invisible Government" of the city, and with seeking to elect a mayor and to control the city officials with the purpose of preventing the carrying out of the will of the people in the matter of the city ownership of the property.

The water utility in local politics, the Railroad Commission's order defied for more than two years, blind dependence by the citizens of Janesville upon the state government, and no relief from unfair water service conditions, seems to be the lesson in the above story.

Valuation Methods in Ashland.

Ashland, up on Lake Superior, is useful as furnishing an example of the Railroad Commission's methods in making valuations of public utility properties.

The Commission ruled in this case that there should be included as items entering into the value of the private water company's plant, land donated to the company by the city and service connections paid for by the consumers—about 800 in all, or one-third of the total number of connections. Stating its conclusions in the case of the land donated, the Commission put out the principle that, "For purposes of proceedings like those herein, the Utilities Law does not inquire into the manner in which property of utility corporations devoted to the public use was originally obtained, whether by purchase, inheritance, gift or theft. The law simply compels the Commission to value this property, and to consider this valuation in taking official action with respect to rates and service. It therefore follows that the value of the donated land must be included

in the value of the property devoted to the public use."

In the matter of including service connections paid for by the consumers, the Commission declared: "From a legal point of view, the same position will doubtless have to be taken." In other words, the land donated by the city and the service connections paid for by consumers, go to fatten valuation, while a rate for service is made that will secure a fair return to the company on such valuation. If there was any record of the Commission seeking through legislative amendment to remedy this atrocious situation, the case would look better for the Commission. The Commission has continually been writing legislation designed to assist in the administration of the Public Utility Act, and has often defeated legislation initiated by cities desiring adequate power to deal with local situations that were working against the interests of the people. It is certainly fair to ask the Commission why it allows such an unfair application of the law to stand, when the power exists in the Commission through its influence on the legislature to change it.

Racine's Pressing Problems.

The city of Racine has pressing utility problems in water, gas, electricity and street railway service. The municipalization of the water plant, approved by an overwhelming vote in 1911, is not yet complete, the matter having gone into the courts and now being before the Commission for final valuation. The reduction of gas rates ordered Jan. 27th, 1911, by the Railroad Commission, benefited only the large consumers. The City Council then endeavored to secure a 5c reduction for small consumers by trading certain rights desired by the company. After three months of dickering, in the course of which the company showed bad faith, the Council has finally dropped the whole matter through lack of final authority.

The electric situation reveals the Racine City Council and the Milwaukee Light, Heat & Traction Co. playing an Alfonse and Gaston comedy as to who shall be the one to appeal its difficulties to the Commisson. Since Sept. 3, 1913, the Council has held back all payments due the electric company for street lighting, because of the company's refusal to carry out the terms of the contract made in 1911, which provided, among other things, for the installation of so-called "goose-neck" lights at the option of the city. Gooseneck lights are popular in Racine, but the company for some reason is trying to wiggle out of its contract. The Railroad

Commission notified the City Council that it would not enforce the new schedule of rates filed by the company until the Council and the company got together. The company threatens week after week at Council meetings to appeal to the Commission unless the Council agrees to a change in the contract. The Council, in response to public demand, stands pat. The net result of the situation is local agitation for a municipal street lighting plant. Bearing in mind Commissioner Erickson's statement that the Commission "has not at any time granted a certificate of convenience and necessity to a competing utility", and recalling that Madison and Baraboo are helpless under very much more trying conditions, it is difficult to see any hope ahead for the tax-payers of Racine.

Previous Contracts Disregarded.

Poor street railway service and disregard of previous contracts by the company are other issues in Racine. The city made an agreement with the Milwaukee Electric Railway & Light Co., in return for the right to run its interurban cars through Racine, that the cars should stop at every street intersection on hail or to let passengers off. The company has refused to conform to these provisions of the contract and the Railroad Commission declines to enforce them against the company. Says the Racine Journal in an editorial of May 20, 1913:

"Under the utility law original franchises it seems are to be enforceable where the corporation desires, but where the people are concerned original provisions don't hold if the corporation doesn't desire it."

Nor are weaknesses in street car service confined to the question of where the cars shall stop. Apparently there is trouble in store for the patron when he succeeds in getting aboard. Says the same publication in its issue of June 9, 1913, under the caption, "Cheer for Strap Hangers":

"In the Bell city (Racine), strap hangers are legion"*** "He is the goat of our lamentable car service. But what can we do? Petitions do no good; threats by the council do no good; appeals to the Railroad Commission do no good."

The result of the entire situation in Racine is that the private company still owns the waterworks; the small consumer of gas has received no benefit in the recent reduction; the electric company breaks contracts with the city with impunity; and the street car company shows the usual contempt for the public; all under the administration of the Wisconsin Public Utility Law by the Railroad Commission.

The La Crosse Situation.

La Crosse furnishes further evidence of the fixed policy of the Railroad Commission to protect the existing monopoly interest without regard to the effect on the public interest. Like Madison and Baraboo, the city of La Crosse learned by hard experience what a veritable stone wall the Wisconsin indeterminate permit is and how helpless any effort to break it or flank it against the defence of the Railroad Commission.

In August, 1913, the La Crosse City Council, exercising ordinary business sagacity, sought to purchase electric power from the lowest bidder—in this case the Wisconsin Railway Light & Power Company (the street railway company). This power was desired to operate a crane during the construction of the new municipal water plant, relatively but an unimportant transaction, but vital as illustrating the Commission's policy.

The above company made a lower price than the La Crosse Gas & Electric Company, with which the city had a contract for furnishing current for street lighting. The Gas & Electric Company promptly appealed to the Railroad Commission to protect its monopoly rights, guaranteed by the indeterminate permit. The Commission decided the case in its favor, denying the city the right to purchase power from any other source. The street railway company secures its power from the Hatfield Dam, while the Gas & Electric Company developes its energy from an antiquated steam plant.

It seems that La Crosse, like all other cities in Wisconsin in similar situations, has but two alternatives—to buy from the local monopoly, or purchase its property for municipal ownership at a valuation fixed by the Commission.

The situation in La Crosse is the more aggravated when it is realized that within striking distance of La Crosse are three hydro-electric power plants, and that the owners of the Gas & Electric Company are also owners of a water power plant with high tension transmission lines terminating only 45 miles from the city. With all this water power so nearly available, electricity is still produced by a steam plant, with steam plant prices to the public, and the Wisconsin Public Utility Act standing guard to perpetuate this condition.

Superior's Utility Troubles.

Superior has furnished exceptional opportunities for the study of the general results of state regulation, together with comparative results, for just across the bay, in Minnesota, lies Duluth, operating

under a home rule charter and with large powers to work out its own public utility problems. The population figures favor Duluth,—about 75,000, against 45,000 in Superior. The conditions otherwise favor Superior. Duluth is rough, hilly, and has a sub-surface of solid rock, and public utility construction involving trenching is very expensive, estimated at twice the cost of similar work in Superior.

Prior to December, 1911, the Superior community had worried along under bad public service conditions in all lines without official complaint to the Railroad Commission. The charges had been uniformly high and the service bad. This condition continued to December, 1910, when the Superior Commercial Club started action against the Superior Water, Light & Power Company for lower rates for all these services, also for a reduction in street railway fare from the Duluth-Superior Street Railway Company. In January, 1911, the complaints were filed with the Railroad Commission, and in about a year the Commission got around to hear evidence. In November 1912, a decision was announced. The Commission made no reduction in gas or water rates and only a slight reduction in electric rates. It ordered a reduction in street car fares—six tickets for 25c, against the former rate of 5c straight.

As in other cases where any substantial reduction in rates was made, the street railway company promptly appealed to the courts, and there the case now rests. It is intimated that the company would be willing to build some sorely needed extensions if the city would give up its claims to the rate reduction ordered. The Superior Commercial Club insists that it will consent to no compromise; that the city is entitled to both.

During the pendency of this action before the Commission, the Water, Light & Power Company voluntarily reduced the price of gas from $1.25 per thousand feet to $1.00. The price of $1.25 represents another voluntary reduction made in 1911. Between that year and 1905 the maximum price was $1.40. During these six years, Duluth, under home rule, and purchasing its gas supply from the same source—the Zenith Furnace Company of West Duluth, a coking concern—enjoyed a rate of 75c per thousand.

Sensitive Over Comparisons.

The Railroad Commission is quite sensitive over this comparison of gas rates between the two cities. Commissioner Erickson, when he appeared before the Minnesota Legislature last winter, explained the

disparity in price by stating that the conditions were quite different. He also declared that Duluth was not charging enough to take care of all factors entering into the cost, including depreciation and lost taxes, and that the property was operating at a loss. In its report on the Superior situation, the Commission attempts to justify this claim by an analysis of the Duluth gas report. After makng its own arbitrary allowance for depreciation, lost taxes and additional interest, the Commission found the extraordinary book deficit, on the 1912 operations, of $1,092. The total business that year aggregated $212,000.

The maximum rate for electricity in Duluth is 8c, in Superior 10c. Water rates in Duluth are approximately 50 per cent lower than in Superior, with a vastly better quality of product.

Bad Street Railway Service.

The street railway service in Superior has long been atrociously bad. Complaints have been many and bitter, but with no result. The Commission is either indifferent, too far away, or too busy elsewhere. Superior, with a population twice that of twenty years ago, has less street railway trackage in operation today than then. One piece of track then in operation has since been torn up by the company, against strenuous efforts by the city to prevent it. The company refuses to make any extensions. The people of Superior, with all power taken from them by the Utility Act, chafe greatly over their unfortunate situation, while the Railroad Commission "sits tight" down at Madison. Public sentiment toward this utility is fairly represented by the results of an election on the issue of municipal ownership of the street railway company in April 1913. The vote was seven to one in favor of the proposition. An other election is to be held this spring on the same question.

Political conditions in the two cities should not be overlooked in the discussion of the Superior situation. In Duluth the gas and water utilities are wholly eliminated from local politics. The public service companies in Superior remain active factors in city politics the same as before the state commission came into existence. In fact, they come pretty near to dominating the politics of that city. Again, in Duluth, gathering strength and capacity through the experience of managing its own public utility affairs, the community has developed an intelligent, resourceful and vigilant citizenship, finding its expression in an up-to-date city charter, effective business administration and constantly broadening civic vision.

Politics in Sheboygan.

One of the popular claims for the Wisconsin Public Utility Act is that it eliminates the influence and activity of the corporations in local politics, and leaves the people free to pursue the even tenor of their way untroubled by utility problems. Sheboygan is one of the cities in Wisconsin where the act has signally failed to produce this result.

There is much political unrest in Sheboygan. The Council and people are divided into two hostile camps, with both sides indulging on occasions in the most bitter personalities—all over the issue of the city's policy toward public utility questions. The leading factor on one side is the mayor, on the other the head of the Street Railway & Electric Company. This unfortunate situation developed about ten years ago. Six years of experience under the Public Utility Act has not bettered conditions a bit; in fact, has only served to complicate affairs.

Coming into office before the passage of the utility law on the municipal ownership of the water plant issue, the present mayor, endorsed by frequent re-elections, has aggressively forced the utility issue to the point where the community is completely at loggerheads. There is a condition of chronic antagonism between the two camps. Meetings of the city council are at times veritable Donnybrook Fairs.

Irregular and inadequate street lighting service, an equipment fifteen years out of date, excessive charges and defiant disregard of the Railroad Commission's orders for a long period, are some of the conditions in Sheboygan that have brought the community to the present state of war with its public utilities. The charge for residence electricty is 15c maximum and 10c maximum for power. The gas reduction secured applied only to the large consumers. The street railway service is poor and the utilities have pursued a "Public be damned" policy toward the community. During all this time, the city water plant has been managed with signal success, giving excellent service, providing for depreciation, extending its mains and intake, retiring some of its bonds annually, with a present large surplus on hand. Incidently, the plant has twice lowered rates in the form of discounts for prompt payment of bills.

The Railroad Commission is now engaged in an effort to straighten out Sheboygan's utility problems. The following issues are now before the Commission: street lighting, water rates, street car extensions and the application for permission to construct a municipal street lighting plant. To prevent

this last result, a desperate effort is being made among certain powerful elements in the city—the press, big business and banks prominently to the fore—to discredit the water plant management.

While years of struggle have educated Sheboygan citizens to a definite knowledge of what they want, the presence of a state regulatory body has only served to confuse the public mind as to the way out of the difficulties. The public is a unit in demanding less discrimination in favor of the large consumers, and it expects to secure permission from the Commission to establish the desired municipal street lighting plant. But how can the Commission consistently grant their demand, when the theory of the Wisconsin Public Utility Act, and Commission precedent in Milwaukee, Madison, Baraboo, and other cities, commits the Commission to exactly the opposite policy?

(As this pamphlet is about to go to press there comes the official information that the Railroad Commission has refused the applicaton of the City for permission to construct a municipal lighting plant, on the ground that the property has changed hands and that the new owners express a determinaton to install new equipment and in other ways to "be good." Evidently death-bed conversion is as good as any other with the Wisconsin Railroad Commission. This instance emphasizes again the fact that to secure efficient service from a public utility company a community must agitate for municipal ownership. No other course will so effectually move the Commission to action.)

A Sample of "Scientific" Methods.

Scientific methods have received many a severe jolt during the life of the Wisconsin Commission. A notable instance was when the Wisconsin Legislature passed a 2c fare law after the Commission had "figured" it out scientifically at 2½ and 3 cents, and the courts upheld the legislative rate. But one of the severest was at Manitowoc where the Commission undertook to readjust gas rates and in the process raised fuel rates from $1.00 to $1.25 without even being asked by the company.

The double rate of $1.25 net for lighting purposes and $1.00 for fuel was held to be unscientific, in that it required the company to maintain two meters for each consumer, and a single rate of $1.25 was ordered. Instead of availing themselves of the proferred friendship of the Commission, the company deemed it expedient, in the face of a rising municipal ownership sentiment, to charge thereafter only $1.00 for fuel and light. Recently the

company has gotten permission to charge $1.05, a change so small that it will be cheaper to pay it than go to the expense of fighting it, even though the gas company had made a contract at the former rate. The real purpose, doubtless, is to forestall the rapidly approaching day when the plant will be taken over by the city, as have the water and electric utilities.

Encouraged by the success of the gas company in securing higher rates, the owners of the inter-urban line from Manitowoc to Two Rivers urged before the Commission their right to a 15c fare in place of the 10c rate agreed on when they secured their franchise, and they too won out.

Manitowoc has gone so far along the lines of public ownership that its difficulties under the Wisconsin system are now mainly the annoying and tardy interference by the State Commission in petty details of utility management—vexatious but not acute. Questions regarding the furnishing of water meters, of service pipe to the curb, rates of service, etc., have been pending since the acquisition of the water plant in 1911 and have resulted in more litigation and trouble than existed before the Public Utility Act was passed. Rather than go to the trouble and expense of taking up with the Commission any more of the numerous irritating complaints, reasonable and unreasonable, the city suffers these annoyances, and the public service is hampered. Assuming, as the Commission claims, that it has assisted Manitowoc in acquiring its water and electric plants, it is now proving to be the principal handicap in their successful management.

Padding Valuation in Oshkosh.

The Wisconsin Railroad Commission in 1913 made a valuation of the Oshkosh Waterworks plant for purchase by the city. The perfectly evident fattening of the value of the property by the Commission to make an imposing total is the fact of large interest in connection with this case. This was effected not only by including the usual "going value" to an uncertain amount but a large allowance also for the item of paving over mains.

The Commission in reaching conclusions as to the present value of the property, adds $58,015 on paving account. The paving actually disturbed in the process of laying mains was but an inconsiderable item—3,620 feet, costing $1,229.00.

Examine for a moment the logic of this transaction: The company has been put to but slight expense for laying mains under paving. Inasmuch

as it is selling its property to the city, it never will have to pay anything on this account. The cost of laying mains in the future under the paving will be carried by the city. This puts the company in the happy position of receiving compensation for work which it has not done, and, on the other hand, imposes upon the city the burden of paying for the extra cost of laying mains under paving several times over—first, when the paving was originally laid; second, in the value of the property at the time of purchase; and then at other times in the future when it is necessary to repair or relay the present distribution system.

The company had a thirty year franchise which would have expired in 1913 had the company not come in under the provisions of the indeterminate permit, which it did in 1911. Under the terms of the franchise contract, the city was privileged to take over the property upon payment of a valuation made by three appraisers, with the proviso, "But in no event shall the amount of their award be in excess of 10 per cent in addition to the actual cost of such work."

It would be interesting to know just how much the city lost on this transaction by the substitution of the indeterminate permit, with the Wisconsin Commission as the arbiter of value, as against a valuation under the terms of the contract.

Writes Its Own Legislation.

A sinister development in the application of the Wisconsin Public Utility Act by the Railroad Commission, is seen in the disposition of the Commission to write legislation, control the action of the legislature in the public utility field, and determine matters of public policy which rightly belong to the respective communities.

Although the Utility law has been sustained by the Wisconsin Supreme Court, on the theory that the law did not seek to endow the Commission with authority to legislate, yet in practical effect, the Commission does legislate, through control of the legislature. As authority we quote Justice Barnes, of the Wisconsin Supreme Court, a member of the original commission appointed by Gov. La Follette. In a speech delivered before the Wisconsin Bar Association at Wausau, in 1913, Justice Barnes is quoted by the press as saying of the various state commissions and their relation to the legislature:

"The administrative bodies spoken of, in addition to transacting a large part of our public business, are all powerful in other directions. As their number and importance increase, the power and influence of the executive and legislative departments of our

government correspondingly decline. The recommendations of these bodies touching matters within their sphere are generally written bodily into the messages of our governors. **It is well nigh impossible to carry any measure through the legislature against the active opposition of a strong commission. It is practically as difficult to defeat any measure advocated by such a body.** In truth and in fact, they largely shape the recommendations of our executives, as well as the legislation that may be enacted. The masses have no voice in the election of these officers. They are all appointed for long terms. It may seem incongruous that those who assert that the people have the ability and intelligence to govern themselves as in a pure democracy, and to initiate laws and to pass on legislative acts by the referendum vote, and to recall all officers however chosen, should in practice deny them the privilege of selecting their most important agents."

Says Mr. A. L. Hougan, former city attorney of Manitowoc, Wisconsin, (Municipality, Jan. 1910):—

"No bill affecting public utilities, or railroads, their rates or their service, was passed by the last legislature without the approval of the Commission. Every such bill was taken to the Commission and if the Commission put its approval upon the bill, it passed. Otherwise the bill was slated for defeat. Some of these measures were purely legislative measures:—For instance, the bill establishing the public policy of this state to be against a service charge. This was purely a legislative measure. Truly the Commission had no authority under the constitution to establish the public policy of this state, yet when this bill came before the legislature the Commission recommended its defeat and it was defeated."

Establishes Municipal Policies.

Not only has the Commission fixed the policy with reference to privately owned plants, but even in municipal plants it has not hesitated to establish, or seek to establish, the policies as to rates and service. There are numerous instances of meter charges ordered where such had not been the practice, notably in the case of the order in the Milwaukee water case (later withdrawn). In spite of the fact that the city charter provided for a flat rate, following several years of unsatisfactory experience with service charges of this character, the Commission did not hesitate to propose a graduated schedule,—clearly an interference in the matter of public policy.

The Commission's lobbying activities are well illustrated by its attitude toward Assembly Bill 292, which passed the Assembly April 14, 1913, and was defeated in the Senate on the representations of the Commission that it already had ample statutory powers. The bill provided in substance that if a street railway company failed to provide the cars ordered by the Railroad Commission it could not

collect fares from passengers unable to secure seats. If the Commission's powers were sufficient why had it failed to enforce its order of July, 1907, applying to the Milwaukee street railway situation? Why now does it not enforce its street car service order of November, 1913, instead of putting the responsibility on the citizens of Milwaukee? And why did the Commission feel called upon to lobby against a measure of public policy which had already received the approval of one branch of the Legislature?

The Indeterminate Permit.

Perhaps the most discussed feature of the Wisconsin Public Utility Act is the so-called indeterminate permit. In its effect upon service, rates and the status of the privately owned public utility companies, it is the one big significant thing in the law. It is the feature of state regulation that appeals strongest to the utility companies and for the inclusion of which they have fought the hardest in the states that now have this system in effect. It was upon their strenuous insistence that this provision was inserted in the Wisconsin act. If not included, they declared they would beat the bill.

Now what is the Wisconsin indeterminate permit?

It is a provision of the Act, which, as originally written, gave the privately owned utility the option to surrender its franchise contract with the municipality and accept in lieu thereof a permit from the state which assured to it the right to operate in its field, under regulation of the state as to service, rates, etc., without a time limit. It is subject, however, to the right of the city to purchase the property at any time, at a valuation made by the Railroad Commission. It was not compulsory upon the public utility companies to accept the indeterminate permit; they could continue to operate under the old contracts if they desired. At the 1911 session of the legislature the indeterminate permit was amended to make it compulsory on all utility concerns to come in under its provision. Previous to that time a large proportion of the companies had accepted indeterminate permits.

What have been the practical results of the indeterminate permit in Wisconsin?

1. It has prolonged the life of privately owned utilities through its obstructive effect on municipal ownership.

2. It has entrenched the companies in their monopoly grip upon the cities, with the result of continued excessive charges and inefficient service.

3. It has made it impossible for municipalities to secure cheaper or better street lighting service through the construction of municipal plants.

4. It has nullified existing contract obligations between cities and utility companies, often to the great advantage of the companies.

The Wisconsin Commission describes the indeterminate permit as a "legally protected monopoly, which is more valuable than the original special franchise;" also as "a practically perpetual and exclusive franchise." This is also the opinion of the Wisconsin Supreme Court. (148 Wis. 334.)

The indeterminate permit guarantees absolute monopoly to the utility first on the ground. It totally eliminates competition. Not even may a city build a plant to serve itself. Under its terms the city of Minneapolis would be prohibited from using the crematory to develop street lighting, and the Twin Cities would be estopped from use of the proposed high dam in the river for street lighting or other municipal use. The electric companies would have the exclusive right to serve the local field.

The language of most of the bills which have become laws creating public utility commissions in various states, has been such as to make the indeterminate permit a contract in perpetuity between the utility and the state. This was the case in the proposed bills in the 1913 Minnesota legislature.

More Valuation Methods.

One of the most important functions of the Wisconsin Commission has been the valuation of public utility properties for municipalization or for rate making purposes. The process of making a valuation of a public utility plant is an intricate one, involving technical accounting and engineering knowledge. The matter of judgment also enters largely into the result, both on the part of the experts conducting the investigation and the Commission which finally determines the valuation.

Of large importance in reaching results is the treatment of the so-called intangible values connected with a public utility property. The results here depend to a large extent upon the attitude of mind of the Commission and the interpretation of the law by the courts. The Wisconsin Public Utility Act in this respect, as administered by the Railroad Commission and re-enforced by the Wisconsin Supreme Court, is so distinctly partial to the interests of the companies as to justify severe criticism.

The Railroad Commission makes the cost of reproduction the basic feature in determining the value of a public utility property. It puts such emphasis upon this jug-handled theory as to often do violence to every sense of justice and fair dealing. Its result is an abnormally high valuation of

the utility's property and the putting upon the community of an excess burden of capital investment to be borne in rates or in the purchase price for municipalization.

Under the theory of reproduction value the public is frequently made to pay a fancy price for an out-of-date plant and obsolete equipment, which under other circumstances would have hardly more than junk value. Then is included so called "overhead charges" to a liberal amount covering every possible contingency of construction cost, paving over mains that have never been disturbed by the company,—in the Oshkosh Waterworks case, $58,000, in the Appleton Waterworks case $17,000—, property that came to the company through gift of the consumers or the city, and on top of this good measure the Commission adds "going value."

The Going Value Theory.

Going value is a vague, elusive and elastic term. It is one of the so-called "intangible" assets of a public service company. Volumes have been written upon the subject in recent years with no results as yet in reaching any general agreement as to its exact meaning, its proper relation to the tangible value or to what extent and in what form it should be included, if allowed at all, in estimating the value of a public utility plant. Going value is perhaps most frequently described as the cost of developing the business, or the aggregate deficits incurred during the early years of the life of a property. Public utility companies everywhere give great importance to this factor, and they battle hard to have it included as a part of the valuation of their properties.

In the Minneapolis Gas Light Company valuation of 1913, the company's expert estimated the going value at $2,350,000, or more than 23 per cent of the total value of the property as claimed by him. The city's expert eliminated this item wholly from consideration, stating that there was no such factor of value attached to the property. This incident alone shows the importance of the question both in rate making and purchase cases, and how necessary it is that state commissions and courts shall have a proper attitude toward it if the public is to receive just treatment.

The Wisconsin Railroad Commission has consistently held that going value must be considered in reaching conclusions as to the value of public utility properties. The Commission's method is to include this as a part of the capital investment of the company, upon which the public must pay profits in perpetuity. In effect, it capitalizes the company's

early losses, if there have been any. Going value under the interpretation of the Railroad Commission and the Wisconsin courts puts upon the public all the hazards of the business of the private concern and assures the company of liberal returns on its investment from the very beginning of operation.

The Vagueness of Going Value.

The uncertainty of the element of going value is evidenced by the continuous policy of the Railroad Commission in refusing to express this item in definite terms of dollars and cents. The public has no means of knowing to what extent this factor has been included in the valuation of the utility. The Commission contents itself with stating that it has "considered" going value in reaching its valuation, without naming the amount allowed. The Wisconsin Supreme Court, in the Appleton Water case, upheld the correctness of this attitude. It declares that it is impossible to set a definite sum as the measure of going value; that it would be difficult even for an expert to say how much of the valuation of a public utility is represented by this item; "to do so would be an attempt to divide a thing which is, in its nature, practically indivisible." (142 N. W. 476.)

Note the logic of this situation: The Railroad Commission says it cannot express going value in definite terms. The Supreme Court agrees with it. Now if the Commission does not know how much this item is and the Court does not, how can it be included in the valuation?

The uncertainty and vagueness that characterizes so many of the Commission's decisions is well illustrated, too, in this case, by the inability of the Circuit and Supreme Courts to agree as to whether the Commission had fixed the going value or not. The former said it had, the latter that it had not; that it had only considered it as a factor in reaching the total value of the property. Apparently the Wisconsin Courts are burdened with the task of deciphering what the Commission means in addition to reviewing the legality of its orders. And to make it certain that this matter of going value never shall be cleared up, the Supreme Court, in the Appleton case, effectually estops future inquiry by declaring that "the mental processes by which this final result (the valuation) is reached by a commissioner and the relative importance given by the mind to each element, as well as the legal or economic principles deemed by him to have a bearing on the result, are not subjects upon which a commissioner can properly be examined."

Both public utility and city experts are subjected to cross examination in the courts as to every detail of the process by which they reach their estimates—going value and all the other items entering into their valuations. What quality of sacredness envelopes a member of the Wisconsin Railroad Commission that he must not be amenable to the same rule of law?

And finally, for the purpose of fattening valuations still more, the Commission has invented a new intangible value which it describes as "Unusual engineering foresight," the story of which has been told in the Milwaukee case.

There can be but one effect of this consistent policy on the part of the Commission—extravagantly high valuations of public utility properties and unwarranted burdens upon the communities, either in the form of over charges for service, inadequate service, or excessive purchase price.

The Price of Peace.

A popular claim for state regulation in Wisconsin is that it does away with court actions in valuations for purchase by municipalities. How it does not do this is instanced by the experience of the three cities—Manitowoc, Antigo and Oshkosh. The Manitowoc water plant was valued by the Commissions, in 1911, at $236,000. But W. G. Maxcy, the owner, demanded $11,500 additional, and the city decided to pay it rather than go to the courts. Antigo was "worked" in the same manner by the same owner this year to the tune of $4,000. Oshkosh recently came into possession of its water plant, for which it paid a fat price made by the Commission. The city is now faced by a multiplicity of court actions by tax payers, trustees and former owners, and again it is Mr. Maxcy that is holding the cards. No one will even hazard a guess as to the amount of the additional price that the city will be compelled to pay. Apparently the Wisconsin Commission will have to add one more intangible element of value if it makes good its claim to settle purchase cases finally. Someone suggests that this intangible be called the "price of peace."

Expense of Experts.

One of the stock claims put out in behalf of the state regulation system is that cities are saved the expense of employing experts. It is also claimed that the Railroad Commission acts as arbiter between municipalities and utilities. The interesting question arises—How can a Commission or anybody

else act as an attorney for an interested party and at the same time be an impartial judge? Common sense says they cannot, and experience in Wisconsin shows they do not. The Commission tends constantly in practice to assume more of the attributes of a court, leaving the litigants—the municipalities and the public utilities—to present their own cases, through legal and technical representatives. The Commission, supported at public expense, and popularly supposed to be the defender of the public interest, is in fact nothing of the sort. In practical effect, it only serves as one more agency between the public and its utility companies, actually adding to both the delay and expense in securing a settlement.

Instances are many: Milwaukee spent $18,000 in carrying its street railway case to the Commission. It cost the city of Beloit $17,000 to present its case against the local utilities. The citizens of Madison now have in their employ a consulting engineer of Milwaukee studying their light situation. Baraboo, Racine, and Kenosha found it necessary to employ experts. In fact, unless a city has employed experts to prepare its case, it has a slim chance for relief when it goes to the Commission. On small matters such as locating of railroad gates, meter complaints, etc., etc., the Commission's experts do the work when they get to it. But in any case involving large issues, the public are not saved expense, but instead bear the additional expense of state experts in their state taxes and company experts in the service rates.

The Road to Promotion.

There is another reason why cities cannot leave their interests entirely to the tender mercies of the Commission's experts. The road to promotion for an employee of a public utility commission lies in the direction of the privately owned plants. Just as in New York, Wisconsin utilities are constantly taking men from the offices of the Wisconsin Commission. If a case is presented by a city and no expert testimony is presented in opposition to the company's experts, temptation to the Commission's expert to be friendly to the utility is tremendous. The very nature of the testimony, much of which is largely a matter of personal judgment, removes all fear of prosecution for perjury. There is, therefore, little incentive to an expert to keep the public point of view uppermost, and practically no danger and every incentive to favor the utility. This idea was forcefully expressed by Professor John H. Gray, director of the public utility regulation investigation of the National Civic Federation, and an ardent advocate of state regulation, before the recent meeting of the

American Economics Association in Minneapolis. It has been a leading argument for the state regulation system that it "develops a body of experts, who will be highly useful later in the management of municipal plants or elsewhere in the public service." The facts indicate rather that the state commissions are training men at the public expense for private service.

Constantly Seeking More Power.

The tendency of public officials generally is to seek to extend their powers. The Wisconsin Railroad Commission is no exception to the rule. Since the enlargement of the original jurisdiction of the Commission in 1907 to include regulation of public utilities, each successive legislature has further amended the act to add to the Commission's powers, and in nearly every case at the behest of the Commission. Complaining constantly of being overworked and undermanned, the Commission continues to take to itself more and more duties and responsibilities. Instead of encouraging communities to assume responsibilities for the settlement of their local utility problems, the Commission persistently forces upon them the opinion that they are not competent to handle such matters, and takes from them all direction and control, even down to the smallest detail. At the 1913 session of the legislature there was added to this already overburdened department of the state the task of administering the "Blue Sky" law and the Water Power Act, both passed at that session. The Commission's work has developed to such a point now that it is compelled to delegate its duties as a Commission to individual members, a significant and dangerous departure from the original purpose of the act and the past practice of the Commission. Even cases of large importance are now decided by a single member.

Utilities in City Politics.

Another popular claim for the Public Utility Act is that it has taken the utilities out of city politics. Yet in all of the large cities of the state, acute utility problems are demanding solution and the leading questions are now utility issues.

While at first the utilities appeared to have no incentive to interfere in local politics, it soon became evident that there would be no relief for the public from intolerable conditions unless city officials took the initiative, entered complaint with the Commission, employed experts, and often appealed to the courts. Manitowoc, with its public ownership fights for water and electricity; Sheboygan, with its

continuous turmoil over water and electricity; Racine with its row over "goose neck" lights and unfruitful dickering over cheaper gas rates for the small consumer; Janesville, holding a recall election in 1913 in which both factions openly charged each other with being allied with the local utlities; Milwaukee, with its constant struggle with the Milwaukee Electric Railway & Light Company over street car service and street lighting; Superior with its street railway difficulties and efforts for municipal ownership, all afford convincing evidence of the state of political unrest in Wisconsin, with the public utility companies one of the main contributing causes.

A statement recently made by former Senator Hudnall of Superior, Wisconsin, one of the authors of the Wisconsin Utility law, is to the point. When asked if the Utility law had in fact taken the utilities out of local politics, he replied that it had not, but on the contrary had put them in deeper than ever. He said that just as soon as the people of the municipalities realized that they were unable to get any action from the Railroad Commission, they immediately started agitating for public ownership, thus compelling the utility companies to fight harder than ever to control the situation. As a result, in practically every municipality where the utility problems have been acute, the local political battles over these questions are more bitter and harder fought than ever.

Reductions in Rates.

The champions of state regulation in Wisconsin point to the large saving to communities in that state through reductions in the rates of public utility companies by the action of the Railroad Commission. The saving on gas alone for 1913, according to the Commission's report, was $320,000. It is not explained in such reports as are available what proportion of this amount represents reductions made voluntarily by the companies during the pendency of the actions, as distinguished between reductions due to the orders of the Commission. The whole saving secured is apparently put to the credit of the Commission, when as a matter of fact, a considerable part of it is the result of the voluntary action of the companies, this action inspired by the militant efforts of the local communities. The Commission was perfectly content to let the condition of excessive charges continue indefinitely. It was only when the people aroused themselves and started something that results came. Yet the credit is all given to the Commission.

In this connection, it is proper to note that while the whole state of Wisconsin was securing an annual reduction of $320,000 in gas charges, the city of Minneapolis alone, by the action of its City Council, effected a saving of $330,000 annually. And the time taken to secure it is not counted by years, but by weeks, while the benefit was immediate.

Again, the Wisconsin Commission's report on savings of gas and electricity does not give the information as to who secured the benefit. Much of this, under the Wisconsin system of discrimination between classes of consumers, necessarily accrued to the large consumers alone. The small consumers, constituting a very large majority of the users, in many cases received no benefit at all. This is in accordance with the "scientific" theories of the Commission. In Minneapolis, every consumer of gas and electricity has been included in all reductions made by the two utilities furnishing these products. There are no "privileged few" to absorb all the benefit of reductions. This is the Minnesota system. While it makes no claims to being scientific, it does try to give equal justice to all.

And do not forget that a considerable part of these claimed savings to the Wisconsin public are not yet effectuated. In the more important cases the companies have appealed to the courts and there are years of litigation ahead and possibilities of no savings at all in the end. In the meantime the public pays the old rate. Of the $295,500 gleefully announced by the Commission's admirers as the aggregate savings in 1913 represented by reductions ordered by the Commission in street car rates alone, $295,000 is tied up in the courts.

And finally, against the actual reduction secured through the action of the Commission, there is the offset of the rates raised by order of the Commission. Rate increases have been allowed in a large number of cases. It is significant, however, that this side of the Commission's ledger is given no publicity.

Control of Securities.

Control of the bond and stock issues of public utility companies, an important part of the Railroad Commission's duties, has not been discussed in this article. The League does not regard the control of utility securities as a legitimate or necessary function of a public utility commission, nor as having any connection with the principle of regulation of public utilities. It concerns investors alone, and not the general public. The most notable results in Wisconsin of the exercise of this function

is the additional stability which has been given public utility securities, with logically accompanying higher values.

In this connection, it is significant that some of the highest authorities in this line see special menace to the public in regulation of securities of railroads. Notable in this list are B. H. Meyer of the Interstate Commerce Commission, Chairman John H. Roemer of the Wisconsin Commission, Governor F. E. McGovern of Wisconsin, Professor John R. Commons of the University of Wisconsin, now a member of the National Industrial Commission, and Senator LaFollette. They declare that there is grave danger that the regulation of securities may in the end be interpreted by the courts as carrying with it validation of securities by the state or the national government. This is a consummation devoutly wished for by the corporations concerned, which explains in part their cordial endorsement of the control of the securities feature of the Wisconsin Public Utility Act. Does not this principle apply with equal directness and force to the state regulation of public utility securities? If not, where is the distinction?

Progressive Principles Violated.

Three notable principles marking progress in government and development of civic ideals are now prominently identified with the administration of government in the United States. Growth in genuine progressiveness may be measured by the degree of acceptance of these principles as fixed ideals of government. They are (1) civil service methods in the conduct of public business, (2) conservation of the public resources and (3) municipal ownership of public utilities. These principles have passed the stage of academic discussion as to their beneficial effect on the moral and political life of the people and their value as practical agencies for the betterment of governmental institutions and the making of intelligent and patriotic citizenship. Only the most benighted hold out against them.

Yet, strange as it may seem, in Wisconsin, recognized as the leader of all the states in progressive policies, these now generally accepted and applied principles of progressive government are rejected by an institution loudly heralded the country over as the most progressive feature of the administration of this progressive commonwealth.

The Railroad Commission's attitude toward civil service in its application to its own department of the state is distinctly unfriendly. It has brought pressure on the civil service authorities to let down

the bars—through the means of favorable interpretation of the rules and by permitting temporary employees to secure positions on the pay-rolls—all to the sure effect of paving the way for a system of favoritism and administrative inefficiency. Other Wisconsin state commissions are legitimate subjects for criticism on this same account, but the Railroad Commission is by long odds the worst offender.

Commissioner Erickson is entirely frank in his position on this question. He says the Commission "is hampered by civil service restrictions." He also says that the lack of civil service tests should not deter any legislature from establishing a state public utility commission; that civil service is not a necessity to successful results.

Slow Water Power Development.

What is the situation as to the use and conservation of the water powers of the state of Wisconsin? Professor L. S. Smith reported to the Wisconsin Geographical Survey in 1908 as follows:

"Probably not more than half a dozen other states in the Union are so favorably situated with reference to water power as is Wisconsin. The total water power in the state at present (1908) developed, approximately 130,000 H. P., is only a small proportion of the total power awaiting development. The importance of water power to a state so remote from coal mines as is Wisconsin, is not likely to be over-estimated."

Five years have gone by and yet only a small fraction of the water powers of Wisconsin has been developed, and there is little likelihood of any rapid development taking place within the near future. Why is this so ? The chief reason is that the Wisconsin Public Utility Act and the Railroad Commission stand in the way.

Says Professor C. M. Jansky, of the University of Wisconsin:—"Some of the most promising water powers are in the most sparsely settled portions of the state. Hence there is no market for electrical energy in the vicinity of the water powers. Local steam plants have the monopoly in the more densely populated sections of the state. How then can water powers be developed and utilized so as to benefit the greatest number?" (Letter to Madison Democrat, Dec. 30th, 1913.)

Truly in the light of past events this beneficent result cannot be brought about through the agency of the Public Utility Act, for the act has worked in practice to just the opposite effect. But the Wisconsin indeterminate permit through its protection of local electric companies in their monopoly rights could not have secured this result alone. It has needed the legal interpretation, the administrative re-enforcement and the zealous enforcement by the

Railroad Commission to make the results absolute. And it must not be forgotten that the Commission helped to write the law and is largely responsible for its remaining on the statute books in its present form. The Commission's present attitude towards this question is shown in the passage by the 1913 legislature of the so-called "Water Power Act," for which it stood sponser, and which Professor Jansky says has retarded instead of accelerated water power development. Madison's present dilemma and Baraboo's unhappy experience, stories of which have already been told, are eloquent testimony of the Commission's devotion to the theory of natural monopoly applied in an academic and unnatural manner at the expense of true conservation and progress.

Discourages Municipal Ownership.

One of the reasons for the cordial support of the state regulation law in 1907 by the public utilities was to stop the wave of municipal ownership of water plants by Wisconsin cities then sweeping over the state. Many of the franchises were to expire in that and the following year. It was believed that the Public Utility Act would stop this tendency toward municipal ownership—and it has. In the seven years since the passage of the act only nine water plants have been municipalized and but four electric plants. All the electric properties were brought under public ownership during the year 1913, and only one of these had a value to exceed $50,000. The Commission points to this inadequate result as showing how easy it is to secure municipal ownership under the Public Utility Act. It omits to explain the many instances in which it has either arbitrarily or under the terms of the law thrown obstacles in the way of municipalities securing ownership of public service plants other than waterworks. Whether public ownership is desirable or not, either as a general principle or in specific cases, the facts plainly indicate that the Public Utility Act makes it difficult, and the Commission on its record stands committed to the policy of obstruction.

But all claims to friendliness toward public ownership are completely swept away by the naive introduction to the National Civic Federation's model public utility bill, which states that its provisions—which follow closely in essential features the Wisconsin act, including the indeterminate permit—are drawn on the theory that state regulation "is the only means of preventing the universal and impetuous move toward public ownership." Com-

missioner Erickson is a member of the Executive Committee of the Federation and is understood to have helped write the bill. How can the Railroad Commission expect to make a favorable record in the direction of municipal ownership when the very inspiration of the Wisconsin act, and state utility acts generally, is opposition to municipal ownership?

Public Opinion Changes.

In the above story, the Minnesota Home Rule League has sought to focus attention upon the more apparent defects of the Wisconsin Public Utility Act and its administration by the Railroad Commission, with some comparative results in Minnesota under home rule. Necessarily only a few high spots can be touched in the compass of this article. The larger part of the story yet remains untold. We believe, however, that this is sufficient to indicate the character and tendency of the Wisconsin system of regulation and to suggest the dangers that attend it.

The most significant fact to chronicle in concluding this article is the recent change in the attitude of the Wisconsin public toward the Railroad Commission and the Public Utility Act. There is a rapidly rising tide of protest against the results and tendencies of the system. The public, long so acquiescent in the work of the Commission, and so willing to accept its own estimate of its value to the state, are now studying the result for themselves and questioning sharply its program and policies. A condition of inquiry and unrest pervades the whole state.

The people in the past few years have seen their taxes go up by leaps and bounds, utility rates increasing, small improvement or none at all in service, and the power denied them to obtain relief for themselves. A day of reckoning now seems to be at hand. A state wide movement, non-partisan and inclusive in character, starting from Madison, the home of the Commission, is rapidly gaining headway and seems likely to sweep the state and force a new political alignment in Wisconsin.

It is an unfortunate complication that others of the state commissions are involved in this controversy; also that much of the old stand-pat element in Wisconsin is enlisted in the fight and may find in this contention the opportunity to so discredit the Wisconsin progressive movement as to wedge themselves back into power. It is equally unfortunate that the Railroad Commission could not have earlier discovered the rising dissatisfaction with its methods and secured legislation to relieve it.

Discontent over the results as seen in rates and service in the public utility field, and rapidly growing tax burdens, constitute only a part of the cause for the present situation. The unrest is deeper seated and more fundamental. The people are becoming conscious of the rapidly growing power of the system over the politics and the policies of the state. The conviction is gaining with them that the commissions are ruling the people instead of serving them; taking away instead of protecting their liberties; destroying instead of conserving self-government—the logical results of an irresponsible bureaucratic system.

The Commission Reverses Itself.

The Railroad Commission, long so arbitrary in its attitude toward public opinion is bending to the storm in an apparent effort to mollify public sentiment. This is seen most significantly in the recent Waukesha gas case, where the Commission changes its attitude radically in the matter of protection of utility monopolies in the control of the local fields. The Commission has steadfastly refused to give communities relief from the oppressive rates of electric plants operated at a low efficiency or under conditions of obsolete equipment, and resisted all efforts of the communities to obtain it for themselves. The Commission has so interpreted its duty under the Wisconsin Public Utility Act. In this case it plainly reverses itself, declaring that it is not the intent of the law to make an indeterminate permit entirely exclusive; that the Commission may allow competition where the conditions warrant it. This will be welcome news to Madison and other cities long struggling with the problem of securing proper rates from a monopoly entrenched utility.

Again, the Commission has authorized the issuance of nearly one billion dollars of securities of public utilities. It has consistently extolled the supervision of securities as one of the crowning glories of the Wisconsin Act. Now comes Chairman John H. Roemer and sounds a warning against this feature of the law. He declares that it contains elements of grave menace to the public interests, involving what in fact may amount to state guaranty of the integrity of the securities authorized and possibly of all previous issues.

With the Commission reversing itself on vital phases of the regulation act in such rapid sequence, what is the logical end? Can it be anything less than a return to the wholesome principle of Home Rule? leaving to the people of the municipalities

to determine for themselves questions that concern only themselves; working out their local problems in their own way free from outside interference; and in the process acquiring self reliance and capacity for self-government. This is the foundation principle of the American system of democratic government; and the only system which will assure permanent conditions of honesty and efficiency in administration and genuine government by the people.

The Wisconsin Public Utility Act

The Wisconsin Public Utility Act is the extreme expression of the principle of state regulation of public utilities and has been administered by the Commission up to the full measure of the letter of the law.

The essential features of the act are as follows:

1. Regulation by the state of rates and service of all public utility companies throughout the state, including waterpowers, this regulation vested in a commission of three men known as the Railroad Commission, appointed by the Governor.

2. Supervision and publicity of accounts of public utility companies.

3. Supervision of bond and stock issues of public utility companies.

4. Regulation of rates and service and supervision of accounts of municipally owned plants.

5. Valuation of the property of public utility companies, both for rate making purposes and as the basis of price to be paid by the municipality in the event of purchase.

6. Nullification of existing franchise contracts between communities and public utility companies.

7. The indeterminate permit, which, in effect, assures absolute monopoly to the public utility company in possession of the local field, limited only by the right to purchase.

8. All real authority over their public utility companies—rates, service, extensions—taken from the municipalities and vested in the state. Absolute disregard of the principle of home rule.

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